

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANCES O'LEARY,

Plaintiff

- against -

NY STATE UNIFIED COURT SYSTEM,

Defendant.

ANSWER

05 CV 6722 (HB)

Defendant, by its attorney, Michael Colodner, answering the Complaint herein:

1. Denies the allegations contained in paragraph "1" of the Complaint, except admits that plaintiff purports to bring this action on the grounds enumerated therein.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "2" of the Complaint.
3. Denies the allegations contained in paragraph "3" of the Complaint, except admits that the Office of Court Administration has offices at 25 Beaver Street, New York, New York.
4. Denies the allegations contained in paragraph "4" of the Complaint, except admits that the Unified Court System of the State of New York employs more than 15 persons.

5. Denies the allegations contained in paragraph "5" of the Complaint, except admits that at all times relevant to this action plaintiff was an employee of the Unified Court System of the State of New York.

6. Admits the allegations contained in paragraph "6" of the Complaint.

7. Denies the allegations contained in paragraph "7" of the Complaint, and refers to the statutory provision referred to therein for its contents.

8. Denies the allegations contained in paragraph "8" of the Complaint, except admits that venue is properly in the Southern District of New York.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "9" of the Complaint.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "10" of the Complaint, except admits that plaintiff's current title is Principal Law Clerk to Judge and she is assigned in that capacity to a Justice of the Supreme Court, Bronx County.

11. Denies the allegations contained in paragraphs "11" through and including "23" of the Complaint.

12. Denies the allegations contained in paragraph "24" of the Complaint, except refers to the response to plaintiff's Charge of Discrimination that was submitted to the Equal Employment Opportunity Commission on behalf of the Unified Court System of the State of New York for the contents thereof.

13. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "25" of the Complaint, except admits that plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph "26" of the Complaint, except admits that the Equal Employment Opportunity Commission issued a Dismissal and Notice of Rights letter to plaintiff dated April 29, 2005.

15. As and for an answer to paragraph "27" of the Complaint, repeats and realleges paragraphs "1" through "14" of this Answer.

16. Denies the allegations contained in paragraph "28" of the Complaint.

17. As and for an answer to paragraph "29" of the Complaint, repeats and realleges paragraphs "1" through "16" of this Answer.

18. Denies the allegations contained in paragraph "30" of the Complaint.

19. As and for an answer to paragraph "31" of the Complaint, repeats and realleges paragraphs "1" through "18" of this Answer.

20. Denies the allegations contained in paragraph "32" of the Complaint.

21. Alleges that paragraph "33" of the Complaint makes no allegations to which a response is required.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

22. Plaintiff has failed to state a cause of action upon which relief may be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

23. This Court lacks subject matter jurisdiction over plaintiff's causes of action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

24. This action is barred in whole or in part by the statute of limitations.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

25. Defendant is immune from suit pursuant to the Eleventh Amendment of the United States Constitution and the doctrine of sovereign immunity.


AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

26. Defendant is not subject to liability under the Administrative Code of the City of New York.

WHEREFORE, the Complaint should be dismissed.

Dated: Albany, New York
September 20, 2005

MICHAEL COLODNER
Attorney for Defendant
Office of Court Administration
Empire State Plaza
4 ESP, Suite 2001
Albany, New York 12223-1450
(518) 474-7469
By:

A handwritten signature in black ink, appearing to read 'JJS', is written over a horizontal line.

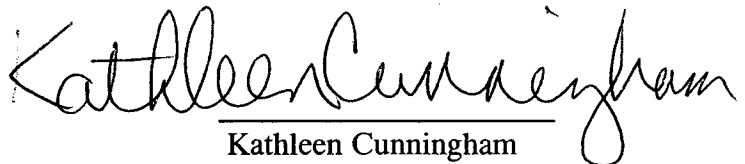
John J. Sullivan (JJS9947)
Assistant Deputy Counsel

STATE OF NEW YORK
COUNTY OF ALBANY

Kathleen Cunningham, being duly sworn deposes and says that deponent is over the age of 18 years, is not a party to the action and resides at 206 Factory Hollow Road, Valley Falls, New York 12185, and that on the 20th day of September, 2005, deponent served a copy of the within Answer upon the following:

Steven M. Coren, Esq.
Coren & Associates, P.C.
570 Lexington Avenue
New York, New York 10022

at the address designated by him by depositing the same in a postpaid wrapper in an official depository of the United States Postal Service in the State of New York.


Kathleen Cunningham

Sworn to before me this
20th day of September, 2005


NOTARY PUBLIC

MAUREEN M. GANNON
Notary Public, State of New York
Qualified in Columbia County
No. 4721942
Commission Expires April 30, 2006